

Remarks/Arguments

Claims 1-42 are pending in the application. Claims 1-28, 41, and 42 are withdrawn. Claims 29-40 are rejected. Claims 29, 33-36, and 39 are currently amended. Claims 10-18, 32, 37, and 38 are cancelled. Claim 43 is new.

Applicant amends claims 29, 33-36, and 39 to clarify the subject matter therein claimed. Applicant further submits that these amendments add no new matter. Support for the amendment of claims 29, 33-36, and 39 may be found in the specification, for example, in paragraphs [0017], [0042], [0043] and [0044], and in Figure 11 of the pending application.

Applicant also introduces new independent claim 43. Applicant submits that this new claim 43 adds no new matter. Support for new claim 43 may be found, for example, in the specification in paragraphs [0013], [0017], [0035], [0036], and [0042] - [0044], and in Figure 11 of the pending application.

Applicant thanks Examiner Kim for the telephone interview of April 29, 2008, wherein amendments along the lines submitted herewith were discussed. In the interview, Applicant proposed amending claim 29 to adjust the preamble and to amend the body of the claim to recite a tire assembly and to recite the adjustability feature of the support frame. The Examiner indicated that consideration would be given to a clarifying amendment that would recite a positively recited structural element, such as the adjustable features of the support frame, to distinguish further over the cited references. Accordingly, claim 29 is amended, and Applicant presents the case for the amendment below.

Applicant notes that the claim set, as amended, cancels independent claim 10 and adds new independent claim 43. Thus no excess fees are due.

Applicant further notes that this Amendment and Response is being filed within the three month shortened statutory period and, as such, no extension of time is required. However, if any

such extension of time is determined to be required, this shall serve as a request for any such required extension, pursuant to 37 CFR 1.136.

In view of the claims as set forth above and the remarks below, Applicant respectfully submits that all claims patentably distinguish over the cited references and are in condition for allowance.

Claim Rejections – 35 USC § 112: The Action rejects claims 29-40 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses the rejections.

Applicant submits that the current amendments of claims 29, 33-36, and 39 make the rejections moot.

Applicant amends the preamble of claim 29 to clarify the relationship between the wheel assembly, the irrigation system, and the tower. Applicant further amends claim 29 to recite the configuration and adjustability features of the support frame.

Applicant amends claim 35 to clarify the relationship between the wheel assembly, the swivel support tube, and the tower.

Applicant amends claim 36 to clarify the relationship between the support frame and the support members.

Applicant amends claim 39 to clarify the relationship between the support frame, the force transfer member, and the tower.

Claim Rejections – 35 USC § 102: The Action rejects claims 29-32, 34-37, 39 and 40 under 35 USC 102(b) as anticipated by Astle (US 738,271). Applicant respectfully traverses the rejection.

As suggested in the telephone interview of April 29, 2008, Applicant submits amendments of claims 29, 33-36, and 39. These amendments clarify the distinctions over Astle.

Astle discloses an irrigation apparatus having a main pipe and lateral pipes leading therefrom and the branch pipes being provided with spaced-apart nipples, whereby a portable spraying machine can be connected. The spraying machine includes a pipe and a skeleton truck comprising several support members 19, 20, 21 supporting yokes 22 and wheels 23, as described in column 1, lines 46-52, and column 2, lines 53-66. Astle, however, fails to disclose every limitation as currently claimed. The spraying machine disclosed in Astle does not include a wheel assembly as claimed in amended claim 29. In particular, Astle does not disclose a support frame that is capable of providing an adjustable connection between the tower and the tire assembly, the support frame comprising an assembly of a first horizontal member and a second horizontal member positionable over a tire assembly, the horizontal members being slideably adjustable relative to each other so that the support frame may be retrofitted to tire assemblies of varying width, each member being coupled to vertical members that are coupled at opposite sides of an axle for the tire assembly so that the support frame is generally U-shaped. Moreover, Astle does not disclose a support frame configured to be coupled to a tower via a plate coupled to a gearbox for the wheel assembly.

Therefore, Astle fails to disclose a wheel assembly, as recited in amended claim 29, and there is no prima facie case of anticipation.

Claims 30, 31, 33-36, 39 and 40 depend, directly or indirectly, on independent claim 29, and are patentable at least for the reasons set forth above.

The Action further rejects claims 29-32 and 36-40 under 35 USC 102(b) as anticipated by Chapman (US 6,131,833). Applicant respectfully traverses the rejection.

Chapman fails to disclose every limitation as currently claimed in amended claim 29. Chapman discloses a tracked drive tower for an irrigation system. This drive tower is of the track

type, with a drive pulley, tail pulley, and idler pulleys engaging an endless track. Tubular frame 24, described in Chapman, does not support a tire assembly, whereas the claimed invention includes a support frame for supporting a tire assembly on opposite sides so as to distribute weight from the tower across the opposite sides of the tire assembly. Additionally, Chapman discloses idler wheels 48 connected to a beam 60 that is pivotally mounted on bracket 61. This adjustable connection is different from the adjustability features of the claimed invention, wherein the support frame is capable of providing an adjustable connection between the tower and the tire assembly through an assembly of horizontal members that are slideably adjustable relative to each other so that the support frame may be retrofitted to tire assemblies of varying width.

For any of the foregoing reasons, Chapman fails to disclose a wheel assembly, as recited in amended claim 29, and there is no prima facie case of anticipation.

Claims 30, 31 and 36, 39, and 40 depend, directly or indirectly, on independent claim 29, and are patentable at least for the reasons set forth above.

In view of the foregoing, Applicant requests that the Action's rejections be reconsidered and withdrawn.

Nothing herein should be deemed as a disclaimer or surrender of any rights, an acquiescence in any rejection, or a waiver of any arguments that might have been raised but were not raised herein or otherwise in the prosecution of this application. Applicant reserves all rights and subject matter with respect to claims being or to be pursued in this or a related application.

CONCLUSION

Applicant submits that in view of the foregoing remarks and/or amendments, the application is in condition for allowance, and favorable action is respectfully requested.

Applicant understands that no fees are due at this time. However, if necessary, the Commissioner is hereby authorized to charge any fees, additional fees, or underpayments, or to credit any overpayments, to Deposit Account No. 50-1001.

Respectfully submitted,

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